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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,291	11/19/2001	Michael J. Rothman	47004.000180	8456

7590 05/02/2003

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EXAMINER

AKERS, GEOFFREY R

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 05/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application 09/988291	Applicant(s) Rothman	
	Examiner Aho, G	Art Unit 364	Confirmation No.

- The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address -

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- ☒ Responsive to communication(s) filed on 2/10/03
- ☒ This action is FINAL. ☐ This action is non-final.
- ☐ Since this application is in condition for allowance except for the formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

#### Disposition of Claims

- ☒ Claim(s) 59-106 is/are pending in this application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 59-106 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved or ☐ disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are ☐ accepted or ☐ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d) or (f).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \*Certified copies not received:

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- ☐ The translation of the foreign language provisional application has been received.
- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 6
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Art Unit: 3624

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is issued in response to applicant's Amendment B(Paper #5) filed 2/10/03.
2. Applicant amended claims 59,63-66,70-75,77-80,84-87,95-97,105-106. All independent claims were amended.
3. Claims 59-106 as amended, are pending.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 59-106 are rejected under Deaton(US Pat. No: 6,424,949) in view of Kramer(US Pat. No: 6,327, 574) in view of Eldering(US Pat. No: 6,298,348)and further in view of Hendrick(US Pat. No: 6,377,936).The rejection as cited in the First Office Action is maintained.
6. (AMENDED) As per amended claims 59-106 Deaton teaches a computer system for storing and manipulating merchant level customer purchase information received from a plurality of sources including a terminal(Abstract)(Fig 2A)(Fig 4A-1/4)(Fig 14A)(Fig 15B)(Fig 26)(col 4 line 62-col 5 line 27) where the computer system has a storage device for storing customer purchase

Art Unit: 3624

information(Abstract)(Fig 2B)(Fig 3)at the merchant level (Abstract)(Fig 2A)(Fig 4A-1/4)(Fig 14A)(Fig 15B)(Fig 26)(col 4 line 62-col 5 line 27) consisting of receiving customer purchase information(col 4 line 51-col 5 line 43) at the merchant level (Abstract)(Fig 2A)(Fig 4A-1/4)(Fig 14A)(Fig 15B)(Fig 26)(col 4 line 62-col 5 line 27) as well as searching the customer database(Figs 14A-17A) at the merchant level (Abstract)(Fig 2A)(Fig 4A-1/4)(Fig 14A)(Fig 15B)(Fig 26)(col 4 line 62-col 5 line 27). Kramer teaches organizing consumer attributes in a heirarchical manner(Abstract)(col 3 lines 22-33) and a match engine(Fig 10.1016/1018) and derivation of a match score metric(Fig 10/1020). Kramer also teaches transaction histories of customers(col 14 lines 12-col 15 line 22) which permits the creation of customer preferences and heirarchichal models(col 20 line 53-col 22 line 15).Kramer further teaches where the customer purchase information comprises stored value information(Fig 6)(Figs 14-16)(col 30 line 60-col 33 line 38) as well as credit card transactions with merchants(col 32 lines 2-23) Eldering teaches product vectors which constitute categories of products(Fig 2D/253) which enables the offering of goods and services(col 7 line 20-col 8 line 42).Eldering teaches both a date and dollar descriptor(Fig 5/518/516) as well as demographic(Fig 5/548)correlation. Henrick teaches forming an offer to a customer based on the customer's preferences(Abstract)(col 4 lines 21-32) as well as extending the offer through the Internet(col 4 lines 10-21). It would have been obvious to one skilled in the art at the time of the invention to combine Deaton in view of Kramer to teach part of the above. The motivation to combine is to teach a system that permits the analysis of historical consumer purchasing behavior as enunciated by Kramer(col 2 lines 38-44).

Art Unit: 3624

Furthermore it would also have been obvious to one skilled in the art at the time of the invention to combine Deaton in view of Kramer and further in view of Eldering to teach part of the above. The motivation to combine is to teach a system that permits the profiling of consumers to determine appropriate advertisements for consumers as enunciated by Eldering(col 3 lines 10-56). Finally, it would have been obvious to one skilled in the art at the time of the invention to combine Deaton in view of Kramer in view of Eldering and further in view of Henrick to teach the above. The motivation to combine is to teach a system that enables merchandisers and providers of market products to consumers over a network as enunciated by Henrick(col 1 lines 32-35).

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3624

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8. Any questions concerning this communication should be addressed to the primary examiner of record, Dr. Geoffrey Akers, P.E., who can be reached between 6:30 AM and 5:00 PM Monday through Friday at 703-306-5844. If attempts to contact the primary examiner are unsuccessful, the primary examiner's superior, Mr. Vincent Millin, SPE, may be telephoned at (703)-308-1065.

The fax number for Formal or Official faxes and Draft or Informal faxes to Technology Center 3600 or this Art Unit is (703)-308-3687. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)-308-1113.

GRA

  
April 30, 2003

**DR. GEOFFREY R. AKERS, P.E.**  
**PRIMARY EXAMINER**